

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JACK GARRISON and DEANE GARRISON,

Plaintiffs,

Civil No. 04-1331-PK

v.

ORDER

BALLY TOTAL FITNESS HOLDING
CORPORATION, LEE S. HILLMAN
and JOHN W. DWYER,

Defendants.

HAGGERTY, Chief Judge:

Magistrate Judge Papak issued a Findings and Recommendations in this action [167] recommending that plaintiffs' Motion for Summary Judgment [91] be denied, and defendants' Motions for Summary Judgment [77, 81, 86] be granted, with a judgment to be entered dismissing this case with prejudice. The Magistrate Judge also ordered that the Motion to Certify Questions to the Oregon Supreme Court [153] and the Motions to Strike [113, 129, 130] are denied.

No objections were filed to this Findings and Recommendation, and the case was referred to me. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate. *Campbell v. United States District Court*, 501 F.2d 196 (9th Cir. 1974).

No clear error appears on the face of the record. This court adopts the Magistrate Judge's Findings and Recommendation.

CONCLUSION

Based on the foregoing, the Findings and Recommendation [167] is ADOPTED. Plaintiffs' Motion for Summary Judgment [91] is denied, and defendants' Motions for Summary Judgment [77, 81, 86] are granted. As noted by the Magistrate Judge, the Motion to Certify Questions to the Oregon Supreme Court [153] and the Motions to Strike [113, 129, 130] are also denied. Judgment shall be entered dismissing this case with prejudice.

IT IS SO ORDERED.

Dated this 15th day of November, 2006.

/s/ Ancer L. Haggerty
ANCER L. HAGGERTY
United States District Judge